

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

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VIVIAN BERT, et. al.,  
Plaintiffs,

vs

AK STEEL CORPORATION,  
Defendant.

Case No. C-1-02-467  
(Beckwith, J.)  
(Hogan, M.J.)

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**ORDER**

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This matter is before the Court on Plaintiffs' Motion for Leave to File Amended Complaint (Doc. 16), and Defendant's Response thereto (Doc. 17).

Fed. R. Civ. P. 15(a) provides that leave to amend "shall be freely given when justice so requires." In considering a motion for leave to amend, courts look at several factors; (1) undue delay in filing; (2) bad faith; (3) repeated failure to cure deficiencies by previous amendments; (4) undue prejudice to opposing party; and (5) futility of amendment. *Interroyal Corp. v. Sponseller*, 889 F.2d 109, 112 (6th Cir. 1989). Notice and substantial prejudice to the opposing party are critical factors in determining whether an amendment should be granted. *Hageman v. Signal L.P. Gas, Inc.*, 486 F. 2d 479, 484 (6th Cir. 1973).

Defendant, in its Response, does not oppose Plaintiffs' motion, stating that its pending Motion to Dismiss the Title VII Claims of the Middletown Plaintiffs and Motion for Summary Judgment on Roderique Russell's Title VII Claims (Doc. 10) is not affected by this amendment. Moreover, Plaintiffs' Motion for Leave to File Amended Complaint was filed by the May 1, 2003 deadline agreed to by the parties and established by the Court's Calendar Order. (*See* Doc. 15). As such, Plaintiffs' motion is hereby GRANTED. The Amended Complaint, which is

attached to said motion, shall be deemed filed as of the date of this Order.

**IT IS THEREFORE ORDERED THAT:**

- 1) Plaintiff's Motion for Leave to File Amended Complaint (Doc. 16) be **GRANTED**. The Amended Complaint, which is attached to said motion, shall be deemed filed as of the date of this Order.

SO ORDERED.

Date: 11/25/03

s/Timothy S. Hogan  
Timothy S. Hogan  
United States Magistrate Judge